IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY**

**WRIT PETITION NO : 11879 of 2005**

Between:

B. Raghunadham S/o. B. Venkatakrishtaiah
Medak District.

**..... PETITIONER**

AND

1.The Joint Collector, Medak District, at Sanga Reddy
R/o. of H.No.5-231, Rammandir Road, Patancheru, Medak District.
2. The Revenue Divisional Officer, Sanga Reddy, Medak District.
R/o. of H.No.5-231, Rammandir Road, Patancheru, Medak District.
3. B. Anjankumar S/o. B. Venkataratnam
R/o. of H.No.5-231, Rammandir Road, Patancheru, Medak District.
4. B. Anil Kumar S/o. B. Venkataratnam
R/o. of H.No.5-231, Rammandir Road, Patancheru, Medak District.
5. B. Ashok S/o. B. Venkataratnam
R/o. of H.No.5-231, Rammandir Road, Patancheru, Medak District.

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more in the nature of writ of Mandamus declaring the *ex parte* order in case No. F3/2514/2003-F3/9/INAM-2003, dated 29-4-2005 passed by the first respondent as illegal, arbitrary and set aside the same and remand the matter to the 1st respondent for fresh disposal and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

**Counsel for the Petitioner: MR.P.RAGHAVENDRA REDDY**

**Counsel for the Respondent No.1 & 2: GP FOR REVENUE**

**Counsel for the Respondent Nos.3 to 5: Mr. M. RAJAMALLA REDDY**

**The Court made the following:**

**ORDER:**

This writ petition has been filed by B. Raghunadham with a prayer to issue an order or direction more particularly one in the nature of Writ of Mandamus, declaring the *ex parte* order in case No.F3/2514-F3/9/INAM-2003, dated 29.04.2005 passed by the first respondent-Joint Collector, Medak District at Sangareddy cancellation the Occupancy Right Certificate issued in favour of the petitioner, as arbitrary and illegal by setting aside the same and remand the matter to the first respondent for fresh disposal.

2. The brief facts of the case in brief giving rise to filing of the writ petition and the facts of the case in brief are as follows:

The writ petitioner filed an application before the Revenue Divisional Officer, Sangareddy, Medak District for grant of Occupancy Right Certificate. The Revenue Divisional Officer, considering his application, granted Occupancy Right Certificate in File No. B4/INAM/153/1994, dated 13.09.1994 in respect of the lands bearing Survey Nos. 196 to 204, 206, 207, 209 to 211 and 879 admeasuring Ac.14.20 guntas situated at Patancheru village and Mandal. The respondents 3 to 5 herein questioned the order granting Occupancy Right Certificate in favour of the petitioner herein by filing an appeal before the first respondent-Joint Collector, Medak at Sangareddy. The said appeal before the Joint Collector went on for a considerable time and ultimately the impugned order came to be passed by the Joint Collector on 29.04.2005 setting aside the

order granting of Occupancy Right Certificate, which is in favour of the petitioner. The operative portion of the order of the Joint collector dated 29.04.2005 reads as follows:

> **"The subject matter land is an ancestral property as contended by the counsel for appellants herein and the grand father of the appellants was the Protected Tenant over the subject matter land. Section 40 of A.P. (T.A.) Tenancy and Agricultural Land Act, 1950 deals with rights of the Protected Tenants and envisages that all rights of a P.T. shall be heritable and the legitimate lineal descendents by blood or adoption shall be deemed to be the heirs of a P.T. In this instant case, the property, which was succeeded by respondent No.2 from his father has been transferred in favour of his brother without the knowledge of his major sons. If he had really intended to do so, he would have obtained No Objection from his major sons, as they are lineal descendents of late Venkata Kishtaiah.**
>
> **After examining the matter with reference to the records, I order cancellation of the impugned ORC issued in favour of the respondent No.1 Sri Raghunatham, S/o Venkatakistaiah to an extent of Ac.7.10 guntas i.e. to the extent of the share of the appellants herein in respect of the lands covered by the impugned ORC i.e. lands in Survey Nos.196 to 204, 206, 207, 209 to 211 and 879 of Patancheru village and mandal.**
>
> **The appellants herein shall approach the Revenue Divisional Officer, Sangareddy to take further course of action for grant of ORC in their favour."**

Assailing said the order, the petitioner filed this writ petition.

3. The learned counsel for the petitioner submits that the first respondent-Joint Collector, Sangareddy, without giving any opportunity to the petitioner, proceeded to pass the impugned order, and therefore, the impugned order is liable to be set aside and the matter need to be remanded for fresh disposal.

4. The learned counsel for the respondents 3 to 5 submits that the petitioner did not choose to appear before the Joint Collector in spite of granting several

adjournments, and therefore, he cannot be permitted to contend that no sufficient opportunity was given to him.

5. On 08.07.2005, this Court passed an order to calling for the proceedings sheet maintained by the Appellate Authority-first respondent. I have gone through the said proceedings sheet. On number of occasions the appeal was adjourned since the Appellate Authority was busy with some other functions. It was only on 21.04.2005 the counsel representing the appellants therein filed written arguments, and thereafter the Appellant Authority proceeded to pass the impugned order.

6. It is the case of the respondents 3 to 5 herein that the Revenue Divisional Officer did not hear then before granting Occupancy Right Certificate. Whereas, it is the grievance of the writ petitioner that no sufficient opportunity was given to him by the Appellate Authority, which set aside the Occupancy Right Certificate in respect of the lands claimed by him.

7. Without going into the matter further, I deem it appropriate to set aside the order of the Joint Collector as well as the order of Revenue Divisional Officer and remand the matter to the Primary Authority i.e. Revenue Divisional Officer to adjudicate upon the rights of the parties a fresh, after affording due opportunity to both parties and dispose of the same within a period of three months from the date of receipt of a copy of this order.

With the above observation, the writ petition is disposed of. No order as to costs.

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**(B. SESHASAYANA REDDY, J)**

Date: 19.07.2005

Note: Issue C.C. in one week.

B.O.

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.The Joint Collector, Medak District, at Sanga Reddy
Rammandir Road, Patancheru, Medak District.
2. The Revenue Divisional Officer, Sanga Reddy, Medak District.
Rammandir Road, Patancheru, Medak District.
3. 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad (OUT)

4. 2 CD copies

*Form-NIC-OGS/WP{**VSMI**}*